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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ.
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Misc. Appeal (C) No. 529 of 2007

APPELLANT (NON-APPLICANT NO.3)	:	United India Insurance Company Limited, Through : Its Branch Manager, Branch Office, Rajendra Nagar Chowk, Bilaspur, (C.G.)
		VERSUS
RESPONDENTS (APPLICANT NO.1)	1.	Smt. Taj Bee, Wd/O – Late Sher Mohammad @ Lallu, Aged – 40 years,
(APPLICANT NO. 2)	2.	Hasina Bee, D/o Late Sher Mohammad @ Lallu, Aged – 25 years,
		Both are R/O – Vill. – Kadari, P.O. – Beltara, P.S. – Ratanpur, Distt. – Bilaspur, (C.G.)
(NON-APPLICANT NO-1)	3.	Bansilal Yadav, S/O – Budhram Yadav, aged about 40 years, R/O – Vill. – Lotlota, PL.S. – Katghora, Distt. – Korba, (C.G.)
(NON-APPLICANT NO.2)	4.	M/s. Sarvamangala Construction Company, Through its Proprietor – Shri Raj Kumar Agrawal, R/o-106, T.P. Nagar, Korba, Tah. & Distt. – Korba, (C.G.)

Appeal under Section 173 of the Motor Vehicles Act, 1988

Present : Shri Dashrath Gupta, counsel for the appellant.

ORAL ORDER
(Passed on 14TH June, 2007)

The following oral order of the Court was passed by

Dilip Raosaheb Deshmukh, J. :

Heard.

The appellant/ Insurer is aggrieved by the award dated 11-12-2006 passed in Claim Case No. 26/2006 by the Additional Motor Accident Claims Tribunal, Bilaspur whereby the Insurance Company while being exonerated from

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its liability to pay compensation was ordered to pay compensation first and to recover later from the owner of the vehicle.

Learned counsel for the appellant did not dispute that the offending vehicle being a heavy motor vehicle was insured by the appellant / Insurer, which was statutorily liable to pay compensation. In this case driver of the offending heavy motor vehicle had a valid driving license though only for light motor vehicle. Learned counsel for the appellant has placed reliance on **National Insurance Company Limited Vs. Kusum Rai & Others**, reported in **2006(2) TAC – 1** in which case also after exonerating the appellant / Insurer it was ordered to pay compensation first and to recover the same later from the owner of the offending vehicle.

Considering the fact that the vehicle in question was a heavy motor vehicle and was also insured under a valid policy of Insurance and the driver of the offending vehicle also possessed a valid driving license though only for light motor vehicle, in our considered opinion, in the facts and circumstances of the case learned Tribunal was wholly justified in exonerating the Insurance Company from its liability to pay compensation while directing it to pay compensation first and to recover the same later from the owner of the vehicle. We find no merit in this appeal. Accordingly, the appeal is dismissed.

Consequently I.A. No. 01 for stay also stands dismissed.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge